

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANGELITO C. MERCADO,)	
)	
Plaintiff,)	
)	
v.)	No. 1:19-cv-04976-TWP-TAB
)	
MATT MYERS,)	
TERRANCE HOLDERNESS,)	
DUSTIN NEWLAND,)	
)	
Defendants.)	

ENTRY GRANTING DEFENDANTS' MOTION TO DISMISS

Before the Court is the defendants' motion to dismiss for failure to prosecute. The defendants assert that, to date, Mr. Mercado has failed to comply with the Court's Entry of May 14, 2020,¹ that ordered Mr. Mercado to serve his responses to defendants' interrogatories and requests for production. *See* dkt. 16 at 1. The defendants state that they served this discovery on Mr. Mercado at his previous address on file and at the updated address that Mr. Mercado provided to the Court in his notice of change of address on April 13, 2020. *Id.* at 2-3. The Court notes that this change of address was the last of Mr. Mercado's filings, and since then, he has not participated in this action. *See* dkt. 13. Thus, Mr. Mercado has not responded to the defendants' motion to dismiss, and the time to do so has passed.

A district court may dismiss an action with prejudice "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order[.]" Fed. R. Civ. P. 41(b). Given that Mr. Mercado has not participated in discovery, failed to comply with the Court's order, has not filed anything in

¹ Mr. Mercado's discovery responses were due on March 30, 2020, and the Court ordered him to serve these responses by June 10, 2020, after defendants filed a motion to compel. Dkt. 15.

this action for three months, and has not responded to the defendants' motion, dismissal for failure to prosecute is appropriate.

The defendants' motion to dismiss, dkt. [16], is **granted**. Final Judgment in accordance with this Entry shall issue.

IT IS SO ORDERED.

Date: 7/27/2020



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

ANGELITO C. MERCADO
311 Hege St. Apt 3
Columbus, IN 47201

Rosemary L. Borek
STEPHENSON MOROW & SEMLER
rborek@stephlaw.com

James S. Stephenson
STEPHENSON MOROW & SEMLER
jstephenson@stephlaw.com